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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/070,817	03/11/2002	Friedrich Sosna	219902US0XPCT	9366
22850	7590	08/26/2003		EXAMINER
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				NUTTER, NATHAN M
			ART UNIT	PAPER NUMBER
			1711	

DATE MAILED: 08/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/070,817	SOSNA ET AL.
	Examiner	Art Unit
	Nathan M. Nutter	1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 6-12 is/are withdrawn from consideration.
- 5) Claim(s) 1-5 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 6-12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a)  The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3,5,7,10.
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Election/Restrictions***

Applicant's election with traverse of Group I, claims 1-5, in Paper No. 12 of 22 July 2003 is acknowledged. The traversal is on the grounds that :

- 1) the "burden of proof is on the Office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness", and
- 2) "a search of all the claims would not impose a serious burden on the Office".

This is not found persuasive because :

- 1) each of the inventions of Groups II-VII are drawn to different classes of inventions that are not obvious one over the other; Group II is classified in Classes 600, 601, 602, 604, 606, 607 and 623; Group III is classified in Classes 424 and 514; Group IV is classified in Classes 252, 424, 514 and 516; Group V is classified in Classes 424 and 514; Group VI is classified in Classes 162, 427 and 428; and, Group VII is classified in Classes 424 and 514. Though there are overlaps in the search areas of the several inventions, they are not sufficient to provide a unity of invention. Group VIII is drawn to a method classified in Group 210 that may be practiced with other constituents.

- 2) Further, since the search areas are so broad and extensive, a full search of all inventions in one application would pose an undue burden on the Office.

The requirement is still deemed proper and is therefore made FINAL.

### ***Allowable Subject Matter***

Claims 1-5 are allowed.

No prior art has been presented that either teaches or fairly suggests the production of a blend of a polymer comprising the particular monomers recited blended with other polymers. The claims of SN 10/070,813 and SN 10/070,817, both cited by applicants, are retained of interest since both sets of claims are drawn to different structural configurations of the microbicidal (co)polymer that may be employed herein. No suggestion or teaching to blend either (co)polymer with another is made in either document.

This application is in condition for allowance except for the following formal matters:

Claims 6-12 must be cancelled.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan M. Nutter whose telephone number is 703-308-2443. The examiner can normally be reached on Monday-Friday 9:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 703-308-2462. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Nathan M. Nutter  
Primary Examiner  
Art Unit 1711

nmn

23 August 2003